

# Holland & Knight

420 L Street, Suite 400 | Anchorage, AK 99501 | T 907.263.6300 | F 907.263.6345  
Holland & Knight LLP | [www.hklaw.com](http://www.hklaw.com)

Howard S. Trickey  
(907) 263-6365  
[howard.trickey@hklaw.com](mailto:howard.trickey@hklaw.com)

Matt Singer  
(907) 263-6318  
[matt.singer@hklaw.com](mailto:matt.singer@hklaw.com)

April 24, 2019

Michael J. Dunleavy, Governor  
Office of the Governor  
State of Alaska  
PO Box 110001  
Juneau, AK 99811-0001  
Fax: (907) 465-3532

Michael Johnson, Commissioner  
Department of Education and Early Development  
PO Box 110500  
Juneau, AK 99811-0500  
Email: [deed.commissioner@alaska.gov](mailto:deed.commissioner@alaska.gov)  
[michael.johnson2@alaska.gov](mailto:michael.johnson2@alaska.gov)

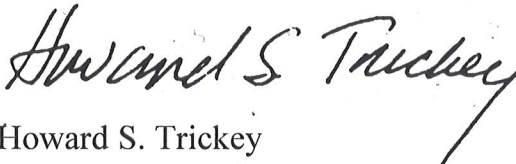
***Re: Unlawful impound of SB 142 funds appropriated for education***

Dear Governor Dunleavy and Commissioner Johnson:

Please find enclosed a draft complaint. If the appropriated education funds are not released by April 30, 2019, then we intend to file this lawsuit and seek immediate relief from the superior court.

Sincerely yours,

HOLLAND & KNIGHT LLP



Howard S. Trickey



Matthew Singer

Enclosure: Complaint

Michael J. Dunleavy, Governor  
Michael Johnson, Commissioner  
April 24, 2019  
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cc: Kevin Clarkson, Attorney General  
email: [kevin.clarkson@alaska.gov](mailto:kevin.clarkson@alaska.gov)

#67317961\_v1

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

COALITION FOR EDUCATION  
EQUITY,

Plaintiff,

v.

MICHAEL DUNLEAVY, in his official,  
Capacity as Governor of the State of  
Alaska, and MICHAEL JOHNSON, in  
his official capacity as Commissioner  
of the Alaska Department of Education  
and Early Development,

Defendants.

Case No. 3AN-19-\_\_\_\_\_ CI

**COMPLAINT FOR DECLARATORY RELIEF & MANDAMUS**

**I. PARTIES**

1. Plaintiff Coalition for Education Equity (“CEE”) is an Alaska non-profit corporation based in Anchorage, Alaska. CEE champions a quality, equitable and adequate public education for every Alaska child through advocacy, policy development and legal action. Since 1996, CEE (previously known as Citizens for the Educational Advancement of Alaska’s Children) has advocated to address inadequacies in Alaska schools through the courts and legislative activity. CEE is a member organization that represents Alaska institutions, organizations and individuals. This lawsuit involves a pure question of Alaska constitutional law and CEE is a constitutional litigant pursuant to Alaska statute.

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2. Michael Dunleavy is the Governor of the State of Alaska and is sued in his official capacity (hereinafter “Governor.”)

3. Dr. Michael Johnson is the Commissioner of the Alaska Department of Education and Early Development and sued in his official capacity (hereinafter “Commissioner”).

## **II. JURISDICTION**

4. This Court has jurisdiction pursuant to AS 22.10.020.

## **III. FACTUAL ALLEGATIONS**

5. In SB 142, CHAPTER 19 SLA 18, the Alaska legislature enacted the following language:

The sum of \$20,000,000 is appropriated from the general fund to the Department of Education and Early Development to be distributed as grants to school districts according to the average daily membership for each district adjusted under AS 14.17.410(b)(1)(A)-(D) for the fiscal year ending June 30, 2019.

6. SB 142 was enacted by the legislature and signed by Governor Bill Walker on or about June 27, 2018 and is the law of the State of Alaska.

7. Despite the legislature’s appropriation, the Governor and/or Commissioner have “impounded” the \$20 million and have not released it to Alaska school districts.

8. The executive branch’s failure to dutifully execute the law of the State of Alaska by “impounding” appropriated funds has caused and will cause harm to Alaska school children, and impairs the ability of Alaska school districts to provide the system of public education mandated by Article VII, section 1 of the Alaska Constitution.

## **COUNT I (DECLARATORY RELIEF & MANDAMUS)**

9. The Governor has a constitutional obligation to faithfully execute the laws of the State of Alaska. Article III, section 16 of Alaska Constitution.

10. Pursuant to Article II and Article IX of the Alaska Constitution, the power to appropriate funds rests with the Alaska legislature.

11. The Governor has no authority to veto a statute enacted by the legislature and signed into law by the prior governor.

12. The executive branch has violated the Alaska Constitution by impounding \$20 million in education funds appropriated by the Alaska legislature in SB 142.

13. The unlawful impoundment of appropriated funds materially impairs Alaska school districts from providing for the system of public education mandated by the Alaska Constitution. This impairment harms the interests of CEE and its members who advocate for an equitable education for all Alaska school children.

14. CEE is entitled to declaratory relief and mandamus ordering the Governor and the Commissioner to faithfully execute SB 142 and release the impounded funds without further delay.

## **PRAYER FOR RELIEF**

CEE seeks the following relief from this Court:

1. An order declaring that the executive branch has violated the Alaska Constitution by impounding funds duly appropriated for Alaska school districts;

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2. A writ of mandamus directing the Governor and Commissioner to immediately release the impounded funds;

3. For an award of attorney's fees and costs, including constitutional litigant fees provided by AS 09.60.010.

4. For such other relief as this Court deems just and appropriate.

DATED at Anchorage, Alaska this \_\_\_\_ day of \_\_\_\_\_, 2019.

HOLLAND & KNIGHT LLP  
Attorneys for Plaintiff

By: \_\_\_\_\_  
Howard S. Trickey  
Alaska Bar No. 7610138

By: \_\_\_\_\_  
Matthew Singer  
Alaska Bar No. 9911072

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KNIGHT LLP**

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